



THE00775P00320US  
Appln. Ser. No. 10/719,115  
PATENT

### REMARKS

Claims 1-3, 7-9 and 17-23 stand rejected while claims 4-6 and 10-16 stand objected to. Furthermore, the drawings are objected to.

Applicants wish to thank the Examiner for indicating that claims 4-6 and 10-16 would be allowable if rewritten in independent form. However, Applicants have chosen not to amend these claims as the independent claims from which claims 4-6 and 10-16 depend, should be allowable as described in the below arguments. Therefore, claims 1-23 are at issue.

### Drawings

The drawings stand objected to for allegedly failing to show every feature of the invention recited in claims 8 and 22 regarding the pump mechanism. As the Examiner has correctly acknowledged, the pump structure is shown in Figure 1, which is labeled as "prior art." In this regard, at page 8, line 19 through page 9, line 5, Applicants state:

The dispensing opening 30 is part of a pump head unit, generally designated 38, which may be provided with a stowable handle 40. Within the pump head unit 38 is a conventional pumping unit 38 which includes a bellows 41 and an operating lever 42 for compressing the bellows 41 in a known fashion. Valves, not shown, are provided in a conventional fashion for the bellows 41 so that when the lever 42 is pressed, air will be driven through the stopper 34 into the interior of the vacuum bottle 10 to compress the contents thereof. When the bellows 41 is allowed to expand, it will refill with air for a further pumping stroke.

Referring again to the present application at page 10, lines 3-7, Applicants also state:

Before proceeding to describe the invention in connection with Figs. 2-10, inclusive, it should, be noted in the interest of brevity, conventional components heretofore described will not be redescribed. Additionally, those components will be given the same reference numerals in Figs. 2-10, as given in the corresponding components in Fig. 1.

Thus, one skilled in the art would understand that Figure 1 includes commonly understood structure which is equally applicable to Figures 2-10 as well as the recited structure in the claims. Furthermore, the pump mechanism 38 is, in fact, shown and indicated in Figures 2, 3, 5 and 10, all of which are not labeled as "prior art." Specifically, these figures reference the pump head unit 38. Therefore, the structure alleged by the Office Action as "not shown" is, in fact, shown in the figures, including Figures 2, 3, 5 and 10. For these reasons, the objection to the figures is improper and should be withdrawn. In view of the foregoing, as the drawings do show every feature of the invention specified in the claims, it is believed that amended drawings would be inappropriate, and accordingly none have been submitted. If the Examiner disagrees with this, Applicants respectfully request timely notification of such.

35 U.S.C. § 102

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Patel. This rejection is improper as the Office Action has either misunderstood the present claims and/or mischaracterized the cited reference.

\* Specifically, independent claim 1, recites a vacuum bottle having an inner liner and an indicator within said inner liner, amongst other structure recited in the claim. This structure is simply not disclosed or suggested in Patel. The Office Action alleges that the structure is shown as "a level indicator 118." However, referring to Figures 5-8, and more particularly to Figure 5, the level gauge housing 118 (including the level gauge 134 as described by Patel) is located outside of the inner liner (reservoir 130). Furthermore, Patel describes this structure at column 8, lines 22-24 as "[a] rectangular, level gauge housing 118 projects forwardly of the body and has a window 120 provided on its outermost surface." Therefore, not only are the level gauge 134 and level gauge housing 118 located outside of the "inner liner" 130, but they are actually located as an extension, projecting forwardly from the outer liner or body 112. For this reason alone, the rejection of independent claim 1, as well as dependent claims 2-3, is improper and should be withdrawn.

35 U.S.C. § 103

Claims 8 and 17-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patel in view of Frazier *et al.* This rejection is also improper and should be withdrawn because Patel and Frazier *et al.*, taken alone or in combination, fail to disclose or suggest the structure recited in the claims. Similar to independent claim 1, independent claims 8 and 22 recite a vacuum bottle having an inner liner and an indicator within said inner liner, amongst other structure recited in the claims.

Furthermore, claims 8 and 22 recite that the indicator is carried by a conduit that extends downwardly into the inner liner. For the same reasons as presented *supra*, Patel fails to disclose or suggest an indicator within the inner liner. Consequently, Patel also fails to disclose or suggest that the indicator is carried by a conduit that extends into the inner liner, such as recited in claims 8 and 22. Frazier *et al.* also fails to disclose or suggest any form of an indicator, let alone the specific structure recited in independent claims 8 and 22. Therefore, the rejection of independent claims 8 and 22, as well as dependent claims 17-21 and 23, is improper and should be withdrawn.

Claim 7 stands rejected 35 U.S.C. § 103(a) as being unpatentable over Patel in view of McPhee. This rejection is also improper and should be withdrawn because Patel and McPhee, taken alone or in combination, fail to disclose or suggest the structure recited in the claims. Claim 7 depends from and more specifically recites the structure of independent claim 1. For the same reasons as presented *supra*, Patel fails to disclose or suggest the structure recited in independent claim 1. While McPhee describes an optical liquid level indicator, McPhee fails to disclose or suggest an indicator within said inner liner, as recited in independent claim 1. Therefore, as claim 7 depends from and more specifically recites the structure of independent claim 1, the rejection of claim 7 is improper and should be withdrawn.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patel in view of Frazier *et al.* and further in view of McPhee. As presented *supra*, each of Patel, Frazier *et al.* and McPhee, taken alone or in combination, fails to

disclose or suggest an indicator within said inner liner, let alone such an indicator carried by a conduit that extends into the liner, as recited in independent claim 8. Therefore, the rejection of claim 9, which depends from independent claim 1, is improper and should be withdrawn.

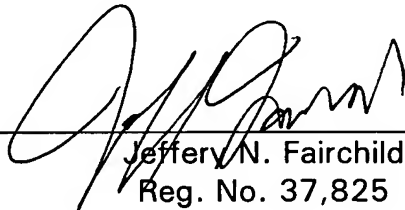
Conclusion

In view of the foregoing, Applicants respectfully request reconsideration of the objection to the drawings, the rejections of claims 1-23 and allowance of the case.

Respectfully submitted,

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